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11	Attorney for Claimant, Ciciriello		
12			
13	UNITED STATES DISTRICT COURT		
14	NORTHERN DISTRICT OF CALIFORNIA		
15	SAN FRANCISCO DIVISION		
16	UNITED STATES OF AMERICA,) No. 09-CV-3963-EMC	
17	Plaintiff,		
18	v.		
19	APPROXIMATELY \$183,820 IN UNITED) JOINT CASE MANAGEMENT	
20 21	STATES CURRENCY AND \$34,000 IN UNITED STATES CURRENCY,) CONFERENCE STATEMENT) AND) [PROPOSED] ORDER TO	
Z 1		I I ROBASEDI ORDER I O	
	Defendant	RESCHEDULE CMC	
22	Defendant.		
22 23	I. Jurisdiction) RÉSCHEDULE CMC))	
22 23 24	I. Jurisdiction This Court has jurisdiction pursuant to	Title 28, United States Code, Sections 1345 and	
22232425	This Court has jurisdiction pursuant to 1355; and Title 21, United States Code, Section	Title 28, United States Code, Sections 1345 and	
2223242526	 I. Jurisdiction This Court has jurisdiction pursuant to 1355; and Title 21, United States Code, Section II. Brief Case Description 	Title 28, United States Code, Sections 1345 and n 881.	
222324252627	 I. Jurisdiction This Court has jurisdiction pursuant to 1355; and Title 21, United States Code, Section II. Brief Case Description This is a civil forfeiture action. The go 	RESCHEDULE CMC Title 28, United States Code, Sections 1345 and n 881. vernment contends there is sufficient evidence to	
2223242526	 I. Jurisdiction This Court has jurisdiction pursuant to 1355; and Title 21, United States Code, Section II. Brief Case Description 	RESCHEDULE CMC Title 28, United States Code, Sections 1345 and n 881. vernment contends there is sufficient evidence to	

person in exchange for a controlled substance, or money traceable to such an exchange, or money used or intended to be used to facilitate a violation of Title 21, United States Code, Chapter 13, Subchapter I, and is thus subject to forfeiture.

Claimant, Gary Ciciriello, denies the claims made by the United States and asserts that the government has failed to state a claim upon which relief can be granted and that the property was seized in violation of Mr. Ciciriello's right to be free from unlawful searches and seizures.

III. Service/Parties to the Action

All persons known to have an interest in the defendant property have been served, including Peter Flax, Carl Grimm, Gary Ciciriello and Mr. Ciciriello's attorney, Joseph Elford. Mr. Elford filed a verified claim and answer on behalf of Mr. Ciciriello on September 25, 2009, and October 15, 2009, respectively. To date, no other claims have been filed.

IV. Principal Factual and Legal Issues

The principal factual and legal issues in dispute are: (1) whether claimant Gary Ciciriello can prove that the government failed to state a claim upon which relief can be granted or that the defendant property was seized in violation of claimant's right to be free from unlawful searches and seizures; and (2) whether the government can establish by a preponderance of the evidence that the defendant currency is money furnished or intended to be furnished by a person in exchange for a controlled substance, or money traceable to such an exchange, or money used or intended to be used to facilitate a drug violation of Title 21, United States Code, Chapter 13, Subchapter I.

V. Anticipated Motions

The related criminal investigation of Mr. Ciciriello is on-going and being reviewed by local law enforcement and the local prosecutors's office; therefore, the parties recommend a 30-day continuance of the Case Management Conference. If the local authorities pursue prosecution of Mr. Ciciriello, the United States will file a 18 U.S.C. §981(g)(1) motion to stay federal civil forfeiture proceedings. Additionally, the government may file a motion to dismiss the claimant's §1983 counter-claim as improperly brought in this in rem forfeiture action.

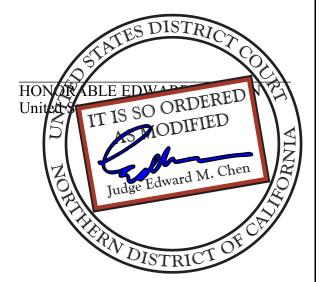
1	VI.	VI. Relief/Damages	
2		The government seeks a judgment o	f forfeiture of the defendant currency. Claimant
3	seeks return of the defendant currency, interest, attorney's fees, damages and attorney's fees fo		
4	42 U.S.C. §1983 violations, and other such relief that is just and equitable.		
5	VII.	Settlement	
6		The parties have briefly discussed se	ettlement but no settlement has been reached at this
7	time.		
8	VIII.	Discovery	
9		Both parties anticipate to propound	discovery in this case (interrogatories, document
10	reques	requests and depositions); however, the discovery time line will be determined by the Court and	
11	the possible request for a stay pending the results of the open criminal investigation of claiman		
12	Ciciriello.		
13	IX.	Alternative Means of Disposition	
14		At this time the parties do not reque	st reference to arbitration or to a United States
15	Magistrate Judge for trial.		
16	х.	. Pretrial/Trial Issues	
17		At this time the parties have not yet discussed any trial issues.	
18	XI.	II. Class Action	
19		This is not a class action.	
20	XII.	Related Cases	
21		At this time no related cases have be	een filed.
22			
23	DATED: February 24, 2010/S/		
24			NATALIE K. WIGHT Special Assistant United States Attorney
25			/S/
26		•	JOSEPH D. ELFORD Attorney for Claimant Gary Ciciriello

[PROPOSED] ORDER

Pursuant to the stipulation of the parties in the Joint CMC Statement and for good cause shown, the Case Management Conference currently scheduled for Wednesday, March 3, 2010, at 2:30 p.m., is hereby vacated, and is continued until _____ 4/21/10 at 2:30 p.m. A joint cmc statement shall be filed by 4/14/10.

IT IS SO ORDERED.

Dated: 3/1/2010



JOINT CMC STATEMENT C 09-3963-EMC